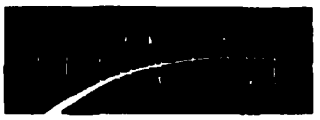

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November 23, 2009

VIA HAND-DELIVERY

Mr. Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal
Administration
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6217 (Haley's PAC et. al)

Dear Mr. Jordan:

This office represents Haley's PAC and its Treasurer Austin Barbour (collectively "Respondents") in the above-captioned MUR.

We have reviewed the Complaint filed on October 6, 2009, by the Louisiana Democratic Party. As is detailed below, there is no reason to believe a violation occurred with respect to any of the allegations contained in the Complaint. In addition, given the relatively low amount of activity involved and other mitigating factors, the Commission should dismiss the Complaint based upon prosecutorial discretion pursuant to Heckler v. Chaney, 470 U.S. 821, 831 (1985).

THE COMPLAINT

The Complaint alleges without any factual evidence that Haley's PAC, a multi-candidate political action committee associated with Mississippi Governor Haley Barbour, engaged in "an illegal conduit scheme in violation of 2 U.S.C. § 441f and 11 C.F.R. § 110.4." Complaint at 2. Specifically, the Complaint alleges without any factual evidence that Haley's PAC conspired with CHIP PAC, a multi-candidate political action committee sponsored by former Congressman Chip Pickering, and the David Vitter for Senate Campaign Committee ("Vitter Campaign") to make an illegal contribution to the Vitter campaign. Id. at 3-5. The Complaint contends that the fact that Haley's PAC made a contribution to the Vitter Campaign "strongly suggests . . . an illegal conduit scheme." Id. at 5. The Complaint provides no evidence whatsoever that Haley's PAC, CHIP PAC and the Vitter Campaign agreed and conspired to make a contribution in the name of another to the Vitter Campaign.

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To the contrary, the only evidence of an alleged contribution in the name of another cited in the Complaint is Haley PAC's disclosure on its FEC report of the contribution that Haley's PAC made to the Vitter Campaign and received from CHIP PAC.

FACTUAL BACKGROUND

On August 11, 2009, Haley's PAC made a $5,000 contribution to the Vitter Campaign. The contribution was made in connection with a fundraising event held for the Vitter Campaign in Jackson, Mississippi on August 12, 2009. On August 15, 2009, CHIP PAC made a $5,000 contribution to Haley's PAC. Haley's PAC duly reported both transactions on its FEC report filed with the Commission on September 20, 2009, and CHIP PAC will duly report its contribution to Haley's PAC on CHIP PAC's upcoming 2009 Year-End Report that will be filed in January.

CHIP PAC's contribution check to Haley's PAC was not designated for the Vitter Campaign and contained no instructions or encumbrances whatsoever. See 8/15/09 CHIP PAC Contribution Check to Haley's PAC (attached hereto as Exhibit 1). In addition, CHIP PAC's contribution check to Haley's PAC was not accompanied by a letter or any other written communication designating the contribution to the Vitter Campaign or any other instruction or encumbrance concerning the contribution. See Heather Larrison Affidavit at ¶ 7 (Exhibit 2). Moreover, upon information and belief, no Haley's PAC personnel had any discussions with Senator Vitter or the Vitter campaign regarding the August 2009 CHIP PAC contribution to Haley's PAC or the Haley's PAC contribution to the Vitter Campaign. See Heather Larrison Affidavit at ¶ 8-9 (Exhibit 2). Further, Haley's PAC's contribution check to the Vitter campaign did not include a notation indicating that the contribution was earmarked or that it was a contribution from CHIP PAC. See 8/11/09 Haley's PAC contribution check to the Vitter Campaign (Exhibit 3). Haley's PAC's contribution check to the Vitter Campaign was not accompanied by a letter or any other written communication indicating that the contribution from Haley's PAC to the Vitter Campaign was earmarked or was a contribution from CHIP PAC. See Heather Larrison affidavit at ¶ 4 (Exhibit 2).

The complaint alleges that the contributions from CHIP PAC to Haley's PAC and from Haley's PAC to the Vitter Campaign were "inconsistent with the committees' normal activities." Complaint at 2. However, Governor Barbour, as the current Chairman of the Republican Governors Association and former Chairman of the Republican National Committee, has a deep history of supporting like-minded Republican candidates at the federal, state, and local level in Louisiana and across the south. Specifically, disclosure reports indicate that Governor Barbour – through Haley's PAC, his state political action committee, and his gubernatorial committee -- has made $341,800 of contributions to candidates and committees in the southeastern United States since 2004. See Barbour Committees Contribution Charts (Exhibits 4-8).[1] Of this amount, Haley's PAC made $83,000 in contributions. Id.

[1] The totals and the list included in Exhibit 4 do not include contributions or transfers to the Haley's PAC state account or to Haley Barbour for Governor, both of which are registered as state

During this same time period, Governor Barbour's committees contributed a total of $12,000 to Louisiana candidates and committees, including a $1,000 contribution to the Vitter Campaign on September 22, 2006. Id.

Similarly, both CHIP PAC and the Chip Pickering for Congress Campaign Committee ("Pickering Campaign") have a long history of making contributions to like-minded Republican candidates and officeholders in Mississippi at the federal, state, and local level. Specifically, since the beginning of 2008, disclosure reports indicate that CHIP PAC has made six contributions to Mississippi candidates and committees in addition to the August 2009 contribution that was made to Haley's PAC. See CHIP PAC Contribution Chart (Exhibit 9). Moreover, since 2001 the Pickering Campaign has made $113,575.00 in contributions to Mississippi candidates and committees. See Pickering Campaign Contribution Chart (Exhibit 10).[2] CHIP PAC and the Pickering Campaign together have made a total of $138,575 of contributions to Mississippi candidates and committees over the last nine years. Id.

The Pickering Campaign likewise has an established history of making contributions to Governor Barbour's gubernatorial committee. Specifically, disclosure reports indicate that the Pickering Campaign made a $10,000 contribution to Governor Barbour's gubernatorial committee in 2007 and a $1,000 contribution in 2002. See Pickering-Barbour Contribution Chart (Exhibit 11).

THE LAW

The Federal Election Campaign Act of 1971, as amended ("Act" or "FECA") provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution..." 2 U.S.C. § 441f. In addition, "no person shall knowingly accept a contribution made by one person in the name of another." Id. The term "person" includes any committee or other group or organization of persons. See 2 U.S.C. § 431 (11). The Act also prohibits individuals and political committees from making or accepting contributions that exceed FECA's contribution limits. See 2 U.S.C. § 441a(a) and (f).

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committees in Mississippi. The totals include contributions made by Governor Barbour's gubernatorial committee from 2006 to the present.

[2] This total and the list included in Exhibit 10 do not include contributions made from the Pickering Campaign to CHIP PAC.

Commission regulations state that no person shall:

> (i) Make a contribution in the name of another;
>
> (ii) Knowingly permit his or her name to be used to effect that contribution;
>
> (iii) Knowingly help or assist any person in making a contribution in the name of another; or
>
> (iv) Knowingly accept a contribution made by one person in the name of another.

11 C.F.R. § 110.4(b)(1).

FEC regulations also indicate that

> [e]xamples of contributions in the name of another include:
>
> (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made, see 11 C.F.R. § 110.6; or
>
> (ii) Making a contribution of money or anything of value and attributing as the source of money or the thing of value another person when in fact the contributor is the source.

11 C.F.R. § 110.4(b)(2).

FECA imposes special rules and reporting requirements on contributions that are earmarked to a particular candidate. FECA requires that "all contributions made by a person, either directly or indirectly, on behalf of a candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate." 2 U.S.C. § 441a(a)(8). FECA further provides that "[t]he intermediary or conduit shall report the original source and the intended receipt of such contribution to the Commission and to the intended recipient." Id.

Commission regulations define an earmarked contribution as

> a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

11 C.F.R. § 110.6(b)(1).

FEC regulations define a "conduit or intermediary" as "any person who receives and forwards an earmarked contribution to a candidate or a candidate's authorized committee..." 11 C.F.R. § 110.6(b)(2). FEC regulations further provide that "[a]ny person who is prohibited from making contributions or expenditures in connection with an election for Federal office shall be prohibited from acting as a conduit for contributions earmarked to candidates or their authorized committees." 11 C.F.R. § 110.6(b)(2)(ii). Commission regulations also contain certain disclosure requirements that apply to both conduits and recipients of earmarked contributions. See 11 C.F.R. § 110.6(c).

DISCUSSION

For the reasons set forth below, the Commission should find no reason to believe that Respondents violated the Act and should promptly dismiss the Complaint.

I. The Complaint Fails to Meet the "Reason to Believe" Threshold.

A "reason to believe" finding that a violation occurred is only appropriate when a complaint sets forth specific facts that, if proven true, would constitute a violation of the Act. See 11 C.F.R. §§ 111.4(a) and (d). "Unwarranted legal conclusions from asserted facts, or mere speculation, will not be accepted as true." Statement of Reasons in MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee) (December 21, 2000) (internal citations omitted). See also Statement of Reasons in MUR 5141 (Moran for Congress) (March 11, 2002) (same).

The Complaint here contains little more than groundless speculation and innuendo, including the naked allegation without any factual evidence that Haley's PAC, Mr. Pickering, CHIP PAC, and the Vitter Campaign conspired together "by engaging in an illegal conduit scheme." Complaint at 5. Because the Complaint fails to meet the "reason to believe" threshold and minimum procedural requirements, the Complaint should be dismissed.

II. There Is No Reason to Believe That Respondents Made A Contribution in the Name of Another to the Vitter Campaign.

Respondents are not aware of any enforcement case in which the Commission has found a violation of 2 U.S.C. § 441f and imposed a civil penalty where, as here, all of the contributions at issue were from permissible sources under FECA and did not exceed the Act's contribution limits.

The Commission has repeatedly dismissed complaints alleging prohibited contributions in the name of another under 2 U.S.C. § 441f when the contributions at issue were from federally permissible sources and adhered to the Act's contribution limits. For example, in MUR 5304 (Cardoza for Congress), the General Counsel's Office noted that "[t]he only facts provided by Complainant [regarding alleged violations of 2 U.S.C. § 441f], derived from public disclosure records, show a series of contributions

between respondents that are legal on their face." First General Counsel's Report in MUR 5304 at 8-9. The General Counsel's office further noted that "the complaint does not meet the threshold for finding reason to believe that any of the respondents violated 2 U.S.C. §§ 441a or 441f." Id. at 9. In light of the foregoing, the Commission found no reason to believe that a violation occurred in MUR 5304. See also First General Counsel's Report in MUR 5406 (Hynes for Senate) at 7 (recommending no reason to believe and emphasizing that "the complaint does no more than list a series of contributions between respondents that on their face appear permissible... ").

Similarly, in MUR 5119 (Friends of John Hostettler), the Commission dismissed a complaint which alleged that a PAC reimbursed a party committee's contribution to a campaign committee in violation of 2 U.S.C. § 441f. The complaint cited as evidence "a correlation in the timing and amount of the contributions at issue: nine days after [the PAC] made a $1000 contribution to [the party], the party made a $1000 contribution to [the campaign committee] . . ." See Second General Counsel's Report in MUR 5119 at 1. In recommending that the Commission dismiss the matter, the General Counsel's office emphasized that the alleged conduit "did not receive and deposit [the PAC's] check until after it contributed to the [campaign] committee." Id. at 7. The General Counsel's office also noted that "[the PAC] has previously contributed to other local parties and candidates in southwestern Indiana... [the PAC] appears to have had a strong motive to contribute to the [party] regardless of whether such funds might be used to support [the campaign committee]." Id. at 12.

Similar to the factual circumstances in MUR 5119, Haley's PAC did not receive the August 2009 contribution from CHIP PAC until after Haley's PAC had already made a contribution to the Vitter Campaign. Moreover, as was noted above, Mr. Pickering, through both CHIP PAC and the Pickering Campaign, has a long history of contributing to Mississippi candidates and committees, including to committees associated with Governor Barbour, and Governor Barbour's committees likewise have an established history of making contributions to candidates and committees in Louisiana, including to committees associated with Senator Vitter. See Barbour Committees Contribution Charts (Exhibits 4-8). See also Pickering Committees Contribution Charts (Exhibits 9-11).

Moreover, in previous enforcement cases, the Commission has declined to find reason to believe that a violation of 2 U.S.C. § 441f occurred when the only evidence provided by the complainant was based on speculation. For example, in MUR 5538 (Friends of Gabbard), the Office of General Counsel concluded that

> [t]he Complainant's allegations that contributions were reimbursed based merely on their reported addresses, religions or occupations are precisely the sort of 'mere speculation' that will not sustain a finding of reason to believe... to leap from those conclusions to conclusions that those persons' contributions must have been reimbursed is to pile speculation upon speculation... In short these speculative allegations do not support a finding of reason to believe.

First General Counsel's Report in MUR 5538 at 4-5. See also Statement of Reasons in MUR 4850 (Deloitte & Touche, LLP) at 2 (emphasizing that "[t]he only apparent evidence to which Complainant

could have been referring was the fact that the Committee's reports showed that a number of [the respondent's] employees made contributions to the Committee, on the same day... we cannot allow mere conjecture (offered by a political opponent's campaign) to serve as a basis to launch an investigation... ").

In light of the foregoing, there is no reason to believe that Respondents violated 2 U.S.C. § 441f.

III. There Is No Reason to Believe That Haley's PAC Received A Prohibited Earmarked Contribution from CHIP PAC.

Commission regulations define an earmarked contribution as

> a designation, instruction or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee.

11 C.F.R. § 110.6(b)(1).

In interpreting and applying the foregoing regulation, the Commission has historically required "express earmarking" for a violation to be found. See e.g., First General Counsel's Report in MUR 5520 (Billy Tauzin Congressional Committee) at 6 (recommending no reason to believe where "[t]he complaint only alleges implied earmarking and does not provide any information that could substantiate express earmarking"); MURs 4831 and 5274 (Missouri Democratic Party), Minutes of an Executive Session, 7-8 (Sept. 8, 2003). Accordingly, the Commission has dismissed numerous earmarking matters brought under 11 C.F.R. § 110.6 where, as here, the contribution checks at issue contained no written designations nor were accompanied by any written instructions or encumbrances.

For example, in MUR 5732 (Matt Brown for U.S. Senate), the Commission found no reason to believe that contributions to state party committees which were subsequently contributed to campaign committees were earmarked, given that no written instructions were provided with the contributions to the state parties. In finding no reason to believe, the Commission emphasized that "funds are considered 'earmarked' only when there is clear documented evidence of acts by donors that resulted in their funds being used by the recipient committee for expenditures on behalf of a particular campaign." Factual and Legal Analysis for MUR 5732 at 6 (emphasis added). The FEC further noted that "[t]he Commission has routinely rejected allegations of earmarking where the circumstances are purely circumstantial, and there is no clear designation or instruction given by the donor." Id. n. 4. See also id. (citing "MUR 5445 (Davis) (finding no earmarking violation . . . because there was no designation or instruction); MUR 5125 (Perry) (finding no earmarking because the complaint contained only bare allegations of earmarking, but showed no designation, instruction or encumbrance; MUR 4643 (Democratic Party of New Mexico) (finding no earmarking based only on

correlation in timing and amounts of contributions, without other evidence of instruction, designation or encumbrance.").

Similarly, in MUR 5520 (Billy Tauzin Congressional Committee), the Commission found no reason to believe that an earmarking violation occurred where there was no evidence of a written designation, encumbrance, or instruction concerning the contributions at issue. In recommending no reason to believe in MUR 5520, the General Counsel's Office emphasized that "in light of recent Commission action addressing implied earmarking, the timing and amount of transfers [between the respondents] do not provide a sufficient basis to investigate any violations of the Act's earmarking provisions." First General Counsel's Report in MUR 5520 at 6-7. See also id. at 4 (noting the absence of any written evidence that the contributions at issue were earmarked). As the FEC has noted on numerous occasions, historically "[t]he Commission... has determined that timing alone is insufficient to support an earmarking claim, where there is no clear designation or instruction by the donors." Factual and Legal Analysis for MUR 5732 at 8. See also First General Counsel's Report in MUR 5678 (Liffrig for Senate) at 7 (recommending no reason to believe where the Commission "[did] not have information such as a check notation or contribution transmittal letter to suggest [an earmarked contribution . . ."])

By contrast, the Commission has found earmarking violations when the contributions were designated in writing for ultimate recipients or otherwise involved a written instruction or encumbrance. For example, in MUR 4831 and 5274 (Missouri State Democratic Committee), the FEC found an earmarking violation under 11 C.F.R. § 110.6 where the contributions at issue "consisted of checks, the memo lines of which were annotated, 'Nixon,' 'Nixon-Win,' 'J. Nixon Fund,' 'Jay Nixon Campaign Contribution' and 'Nixon, not for Skelton or Danner.'" Conciliation Agreement in MUR 4831/5274 at 2. See also id. ("In two instances, contributors enclosed their contributions with letters stating that their contributions were 'to aid in' the Nixon campaign or instructing the [Missouri Democratic Party] to spend the money on Nixon.")[3]

[3] The Commission has declined to find an earmarking violation under 11 C.F.R. § 110.6 even when there was written evidence that the contributions at issue were designated for particular candidates or were otherwise encumbered. For example, in MUR 4538 (Alabama Republican Party), the Commission dismissed a complaint alleging illegal earmarked contributions. The General Counsel's Office concluded in MUR 4538 that

> [a]lthough the investigation has revealed some evidence of 'designations, instructions, or encumbrances' in the form of check notations and language in the solicitation letter, this Office believes that further investigation is unlikely to provide more substantial evidence of improper earmarking and would be an inefficient use of Commission resources...

Eighth General Counsel's Report in MUR 4538 at 22. See also id. at 21 (noting written notations on some of the contribution checks at issue yet recommending no further action).

As was noted above, the August 2009 contribution check from CHIP PAC to Haley's PAC was not designated for the Vitter Campaign and contained no written notation or instruction. See 8/15/09 CHIP PAC Contribution Check to Haley's PAC (Exhibit 1). In addition, CHIP PAC's contribution check to Haley's PAC was not accompanied by a letter or any other written communication designating the contribution to the Vitter Campaign or containing any other instruction or encumbrance. See Heather Larrison Affidavit at ¶ 7 (Exhibit 2). Moreover, upon information and belief, no Haley's PAC personnel had discussions with Senator Vitter or the Vitter Campaign regarding the August 2009 CHIP PAC contribution to Haley's PAC or the Haley's PAC contribution to the Vitter Campaign. See Heather Larrison Affidavit at ¶ 8-9 (Exhibit 2).

In light of the foregoing, the Commission should find no reason to believe that Haley's PAC received or forwarded a prohibited earmarked contribution under 11 C.F.R. § 110.6.

IV. There Are Compelling Reasons to Dismiss the Complaint Based Upon Prosecutorial Discretion Pursuant to Heckler v. Chaney.

A. All of the Contributions At Issue Were From Permissible Sources

All of the transactions in question involved contributions to political committees that were made using federally permissible funds.

The Act prohibits federal political committees from accepting contributions from national banks, corporations, labor organizations, government contractors, and foreign nationals. See 2 U.S.C. §§ 441b, 441c, and 441e. Given that both CHIP PAC and Haley's PAC are federally registered political committees, CHIP PAC's contribution to Haley's PAC and Haley's PAC's contribution to the Vitter Campaign consisted of funds raised from permissible sources under the Act. By contrast, in previous enforcement cases in which the Commission found prohibited contributions in the name of another or earmarked contributions, the violations frequently involved a prohibited conduit. For example, in MUR 5268 (Kentucky State District Council of Carpenters), the Office of General Counsel emphasized that the violations included "prohibited monetary contributions resulting from coercing individual contributions from union field representatives and improperly acting as a conduit and facilitating the collection and delivery of those contributions." Third General Counsel's Report in MUR 5268 at 2. See also First General Counsel's Report in MUR 5573 (Westar Energy, Inc.) (noting in recommending a reason to believe finding that respondents violated the Commission's earmarking regulations through the use of corporate personnel and resources in collecting and delivering earmarked contributions, including prohibited corporate contributions).

B. None of the Contributions At Issue Exceeded the Contribution Limits

All of the transactions in question were contributions to political committees that were within FECA's contribution limits.

Under the Act, a federally registered multi-candidate PAC may make contributions to another federally registered multi-candidate PAC of up to $5,000 per calendar year. See 2 U.S.C. § 441a(a)(2)(C). The Act further provides that federally registered multi-candidate PACs may make contributions to an authorized campaign committee of up to $5,000 per election. See 2 U.S.C. § 441a(a)(2)(A).

Previous enforcement cases concerning violations of the Commission's earmarking regulations and the prohibition on contributions in the name of another frequently also involved excessive contributions. For example, in MUR 4818 (Roberts for Congress), the General Counsel's office noted that a key element of the violation was the concealment of excessive contributions. See Sixth General Counsel's Report in MUR 4818 at 1-2. The General Counsel's office emphasized that "[a]t nearly every turn of this Office's investigation, we discovered additional violations, most of which implicated [the individual respondent]. For example, the [campaign committee] accepted excessive contributions totaling at least $348,380, of which at least $190,380 came from [the individual respondent] personally... [t]he [campaign committee] reported most of these contributions as loans from the candidate's 'personal funds,' or did not disclose them at all." Id. See also July 7, 1999 General Counsel's Report in MUR 4434 (Outback Steakhouse, Inc.) at 17 (recommending reason to believe and emphasizing that the respondent "was aware of the statutory limitation on personal contributions, and purposefully attempted to evade it" by making excessive contributions in the name of another).

CHIP PAC did not make any other contributions to Haley's PAC in 2009 apart from the $5,000 contribution at issue, which was within the Act's contribution limits. Likewise, because CHIP PAC has not made any contributions to the Vitter campaign for the 2010 election cycle, CHIP PAC has not made an excessive contribution to the Vitter Campaign, even if CHIP PAC's $5,000 contribution to Haley's PAC were treated as an earmarked contribution to the Vitter campaign, nor has Haley's PAC made an excessive contribution to the Vitter campaign.

The fact that none of the contributions at issue exceeded the applicable contribution limit is another ground for the Commission to exercise prosecutorial discretion and dismiss this matter.[4]

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[4] A portion of Haley's PAC's August 2009 contribution to the Vitter Campaign was designated to the 2010 General election and a portion was designated to the 2010 Primary election. When the 2009 contribution is combined with a contribution that Haley's PAC made to the Vitter campaign in 2006, Haley's PAC has contributed a total of $5,000 to the Vitter Campaign for the 2010 Primary, and $1,000 for the 2010 General.

Haley's PAC's October 20, 2006 FEC report, which disclosed the 2006 contribution to the Vitter Campaign, inadvertently indicated that the contribution was made for the 2006 General election.

C. The Contributions at Issue Were Very Small

The Complaint's allegations involve two contributions of $5,000. In previous enforcement cases involving allegations of a similar nature, the Commission has taken no further action against the respondents or dismissed the matters based on the low dollar amount of the alleged violations. For example, in MUR 5514 (Community Water Systems, Inc.), which involved political contributions that were allegedly reimbursed by a corporation, the Office of General Counsel noted that "the small amount of the alleged conduits' contributions, which collectively totaled $9,000 during 2002, does not appear to justify the use of more resources... to pursue possible violations by them." Second General Counsel's Report in MUR 5514 at 11. Accordingly, the Commission took no further action in the matter. Similarly, in MUR 5119 (Friends of John Hostettler), the General Counsel's Office noted that "[c]onsidering that this matter involves only $1,000, and considering that further investigation will likely not yield additional evidence of a violation, this Office believes that the Commission should no longer devote its resources to this matter." Second General Counsel's Report in MUR 5119 at 12. See also MUR 5797 (Guillaume de Ramel) (dismissing a case involving an alleged $1,000 contribution in the name of another due to the small amount of the alleged violation).

In light of the foregoing, the Commission should exercise prosecutorial discretion and dismiss the Complaint pursuant to Heckler v. Chaney, 470 U.S. 821, 831 (1985).

However, Senator Vitter did not run for re-election in 2006. Accordingly, Haley's PAC's FEC report should have indicated that the entire $1,000 contribution was for the 2010 Primary election. In addition, Haley's PAC's September 20, 2009 FEC report, which disclosed Haley's PAC's 2009 contribution to the Vitter Campaign, inadvertently indicated that the contribution was made for the 2008 General election. Given that Senator Vitter is running for re-election in 2010, Haley's PAC's FEC report should have indicated that $4,000 of the contribution was for the 2010 Primary election and $1,000 was for the 2010 General election. Haley's PAC will file amendments to its FEC reports to disclose corrected election designations.

CONCLUSION

For all the reasons set forth above, the Commission should find no reason to believe that Respondents violated the Act and should promptly dismiss the Complaint.

Respectfully submitted,

Michael E. Toner